

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Subpart E of)
Chapter 1 of the Commission's) CC Docket No. 94-93
Rules Governing Procedures to)
Be Followed When Informal)
Complaints Are Filed Against)
Common Carriers)

AT&T REPLY COMMENTS

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits this reply to the comments filed by GTE Service Corporation ("GTE") on the modifications to the Commission's informal complaint rules proposed in the Notice in this proceeding.¹

Like AT&T, GTE recognizes the critical need for revision of Section 1.716 to require greater specificity of informal complaints. Compare AT&T Comments, pp. 5-6 with GTE Comments, pp. 1-2. GTE's description of its experience under the current informal complaint rules mirrors the problems AT&T frequently encounters in dealing with such claims:

¹ Amendment of Subpart E of Chapter 1 of the Commission's Rules Governing Procedures to Be Followed When Informal Complaints Are Filed Against Common Carriers, CC Docket No. 94-93, Notice of Proposed Rulemaking, FCC 94-211, released September 2, 1994 ("Notice").

"Many of the informal complaints received by GTE are illegible, unintelligible and/or lacking in important information. These deficiencies can, and often do, dramatically increase the time and effort necessary to investigate and resolve the customers' claims." GTE Comments, pp. 1-2.

Thus, there is clear need and justification for the Notice's proposal (§ 4) to require informal complainants to set forth "factual allegations that, if true, are sufficient to constitute a violation" of the named carrier's lawful duties.

GTE also recognizes (p. 2) that the failure of many informal complainants to attach copies of relevant bill statements simply further exacerbates the difficulties carriers often face in responding to those claims. AT&T showed in its Comments (pp. 7-8) that informal complainants should be required, and not merely "encourage[d]," to provide this crucial information with their claims, and GTE likewise correctly supports imposing this requirement.²

² Because AT&T (Comments, n.13) showed that copying machines are available to -- and affordable by -- virtually all complainants, there is no basis for GTE's proposed exception to the requirement of providing bills where an informal complainant "is unable to afford the cost of photocopying them." Comments, n.1. GTE's additional suggestion (*id.*) that complainants be permitted to "simply recreate the disputed portion of the bill in writing" is similarly misplaced; there is no basis to believe that such "recreated" bills would be any less "illegible, unintelligible and/or lacking in important information" than other complainants' filings described by GTE.

However, GTE erroneously endorses the Commission's proposed revision to Section 1.717, requiring notification to the parties of the staff's disposition of all informal complaints, and appears also to support the related change to Section 1.718 tying "relation back" of formal complaints to the date of the staff's notification. GTE contends (p. 2) that these procedures would somehow assist carriers by providing "more clearly defined deadlines and expiration dates" than under current practice.

AT&T showed in its Comments (pp. 8-13) that the staff's "disposition" of an informal complaint is superfluous, because the Commission is not authorized to make dispositive finding in such matters. Once a carrier has returned an informal complaint unsatisfied, the claimant's only avenue of relief from the Commission is to file a timely formal complaint.

In all events, therefore, requiring staff notification for all informal complaints would serve little point, particularly in view of other demands on scarce staff resources.³ However, the Notice's companion

³ AT&T showed (Comments, pp. 3-7) that the staff now routinely experiences substantial delays merely in forwarding informal complaints to carriers. Against this background, it would seem ill-advised for the staff to assume the additional burden of issuing disposition letters for all informal complaints promptly after receipt of the carriers' reports regarding those claims.

proposal to allow formal complaints for these claims to relate back to the staff's disposition letter would seriously prejudice defendant carriers by extending their exposure well beyond the current limitations period.⁴

This untoward result would far outweigh the insubstantial "benefits" described by GTE in its comments.⁵ AT&T submits that there can be no justification for imposing this uncertainty on carriers. As shown in its Comments (pp. 12-13), if the Commission wishes to assure that informal complainants are made aware of the filing deadline for a formal complaint, that objective can more expeditiously and fairly be achieved by requiring defendant carriers to include such information in their reports on informal complaints.

⁴ As AT&T showed (Comments, p. 10 and n.15), Section 415 of the Communications Act, 47 U.S.C. § 415, prescribes a two-year statute of limitations that is substantive and jurisdictional. Section 1.718 of the Commission's rules now permits informal complainants to file a formal complaint up to six months after a carrier's report returning unsatisfied an informal complaint for that claim. However, the Commission's legal authority to thus circumvent the statutory limitations period is questionable.

⁵ GTE points out (Comments, p. 2) that many informal complaints "can remain 'pending' for months, or even years, in carriers' files" without any "official notification" from the Commission that those matters have been closed. GTE ignores the fact that with the passage of time these stale claims may become timebarred under Section 415 but, under the proposal in the Notice, would purportedly remain actionable until 60 days after the Commission's often-belated notification to the parties that an informal complaint has been closed.

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WHEREFORE, the Commission should adopt modifications to its informal complaint rules in accordance with the revisions described above and in AT&T's Comments.

Respectfully submitted,

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November 8, 1994

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 8th day of November, 1994, a copy of the foregoing "AT&T Reply Comments" was mailed by U.S. first class mail, postage prepaid, to the parties listed below.

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